

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:07-CV-498-D

ALLSTATE INSURANCE COMPANY,
ALLSTATE INDEMNITY COMPANY,
and ALLSTATE PROPERTY AND
CASUALTY INSURANCE COMPANY,

Plaintiffs,

v.

TIMOTHY J. WEIR, D.C., MARK DENNIS
COYNE, M.D., CAROL KOOISTRA, M.D.,
ROSE WEIR, SARAH NICOLE COLGAN,
WENDY DAVIS, FIRST CHOICE FAMILY
HEALTHCARE, P.C., and MED PLUS
MANAGEMENT COMPANY,

Defendants.

ORDER


Defendant Dennis Coyne, M.D. ("Coyne"), failed to appear in this action, and the Clerk of Court entered his default [D.E. 95]. On September 23, 2008, plaintiffs filed a motion for default judgment as to Coyne [D.E. 98]. Defendants who have appeared in this action filed a memorandum in opposition to plaintiffs' motion for default judgment [D.E. 102].

Although the Clerk of Court did enter default against Coyne, this court retains discretion to enter a default judgment as to Coyne. See Fed. R. Civ. P. 55(b)(2). In deciding whether to enter a judgment against Coyne, the court may consider that this action involves multiple defendants and the possibility of inconsistent dispositions. See Curtis-Wright Corp. v. Gen. Elec. Co., 446 U.S. 1, 8 (1980); United States ex rel. Hudson v. Peerless Insur. Co., 374 F.2d 942, 944-45 (4th Cir. 1967). The court also may consider that the action is at an early stage and whether entering a judgment

against Coyne at this time would waste judicial resources. The court does believe that if it entered a default judgment at this time, it would waste judicial resources. Such a judgment would necessitate a hearing to determine the damages that Coyne owes to plaintiffs. If this case proceeds to trial, however, the court would hear relevant evidence as to damages and thereby obviate the need for a separate hearing on damages as to Coyne. Cf. Fed. R. Civ. P. 55(c).

Accordingly, having fully considered plaintiffs' motion for default judgment as to defendant Coyne, plaintiffs' motion [D.E. 98] is DENIED without prejudice.

SO ORDERED. This 11 day of December 2008.


JAMES C. DEVER III
United States District Judge